

CCRB INVESTIGATIVE RECOMMENDATION

Investigator: Harry Feigen	Team: Squad #13	CCRB Case #: 201704509	<input checked="" type="checkbox"/> Force	<input type="checkbox"/> Discourt.	<input type="checkbox"/> U.S.
			<input checked="" type="checkbox"/> Abuse	<input type="checkbox"/> O.L.	<input checked="" type="checkbox"/> Injury
Incident Date(s) Tuesday, 06/06/2017 5:20 PM	Location of Incident: Opposite of 54 West 174th Street; Inside the 46th Precinct stationhouse	Precinct: 46	18 Mo. SOL 12/6/2018	EO SOL 12/6/2018	
Date/Time CV Reported Tue, 06/06/2017 10:54 PM	CV Reported At: CCRB	How CV Reported: Call Processing System	Date/Time Received at CCRB Tue, 06/06/2017 10:54 PM		

Complainant/Victim	Type	Home Address

Witness(es)	Home Address

Subject Officer(s)	Shield	TaxID	Command
1. POM Rafael Guzman	03491	934982	046 PCT
2. POM Flavio Rivera	26260	937383	046 PCT
3. LSA Christophe Lagrasta	00000	906601	046 PCT

Witness Officer(s)	Shield No	Tax No	Cmd Name
1. POM Valon Rugova	07286	957113	046 PCT

Officer(s)	Allegation	Investigator Recommendation
A.POM Rafael Guzman	Force: At 54 West 174th Street in the Bronx, PO Rafael Guzman used physical force against § 87(2)(b)	
B.POM Rafael Guzman	Force: At 54 West 174th Street in the Bronx, PO Rafael Guzman used a chokehold against § 87(2)(b)	
C.POM Rafael Guzman	Force: At 54 West 174th Street in the Bronx, PO Rafael Guzman restricted § 87(2)(b)'s breathing.	
D.POM Flavio Rivera	Force: At 54 West 174th Street in the Bronx, PO Flavio Rivera used a chokehold against § 87(2)(b)	
E.POM Flavio Rivera	Force: At 54 West 174th Street in the Bronx, PO Flavio Rivera restricted § 87(2)(b)'s breathing.	
F.POM Rafael Guzman	Abuse: At the 46th Precinct stationhouse, PO Rafael Guzman did not obtain medical treatment for § 87(2)(b)	
G.LSA Christophe Lagrasta	Abuse: At the 46th Precinct stationhouse, Lt. Christopher Lagrasta did not obtain medical treatment for § 87(2)(b)	

Case Summary

On June 7, 2017, § 87(2)(b) a non-witnessing complainant, filed this complaint on behalf of his nephew, § 87(2)(b) via the CCRB's Call Processing System.

On June 6, 2017, at approximately 5:20 p.m., § 87(2)(b) was sitting inside of a vehicle parked next to a fire hydrant in front of 54 West 174th Street in the Bronx. Three other unidentified individuals were inside of the vehicle with § 87(2)(b) PO Flavio Rivera and PO Rafael Guzman, both of the 46th Precinct, drove past § 87(2)(b)'s vehicle, stopped, and then reversed so their vehicle was next to the one § 87(2)(b) was inside of. The officers recognized § 87(2)(b) and knew that there was an open warrant for his arrest in connection with a burglary. Both officers exited their vehicle, approached the vehicle § 87(2)(b) was seated in, and asked § 87(2)(b) to exit the vehicle. § 87(2)(b) did this, and then attempted to run away from the officers. PO Rivera grabbed § 87(2)(b) around his waist, and § 87(2)(b) and the officer both fell to the ground. § 87(2)(b) stood up, and PO Guzman grabbed him by his hair and threw § 87(2)(b) to the ground (**Allegation A**). PO Guzman, PO Rivera, and § 87(2)(b) engaged in a physical struggle on the ground as the officers attempted to place § 87(2)(b) in handcuffs. During this struggle, both officers wrapped their arms around § 87(2)(b)'s neck (**Allegations B, C, D and E**). Additional officers from the 46th Precinct arrived at the scene and § 87(2)(b) was placed in handcuffs. He was then transported to the 46th Precinct stationhouse and arrested in regards to the open warrant, and also for resisting arrest. While being held in a cell at the stationhouse, § 87(2)(b) asked PO Guzman and Lt. Christopher Lagrasta to call an ambulance for him multiple times. Both officers stated they would call an ambulance, but no ambulance ever arrived for § 87(2)(b) (**Allegations F and G**).

Cell phone video footage was sent to the CCRB by § 87(2)(b) (01 Board Review), and video footage was also obtained from a security camera on the exterior of 51 West 174th Street (02 Board Review).



2017-09-27_15-19-26.mp4



2017-09-27_15-25-26.mp4

§ 87(2)(g)

Mediation, Civil, and Criminal Histories

- This case was not suitable for mediation, due to § 87(2)(b)'s arrest.

- A notice of claim was submitted to the NYC Comptroller’s Office on September 25, 2017. On October 2, 2017, it was returned with negative results (03 Board Review).

- § 87(2)(b)

- § 87(2)(b);§§ 86(1)(3)(4);§ 87(2)(c)

Civilian and Officer CCRB Histories

- § 87(2)(b)

- PO Rivera has been a member of service for 12 years. There are no substantiated allegations on his record, § 87(2)(g)
- PO Guzman has been a member of service for 13 years. There are no substantiated allegations on his record. There are three discourtesy allegations against him across three cases. Two have been closed as “complainant uncooperative,” and one as “unsubstantiated.”
- Lt. Lagrasta has been a member of service for 23 years. In case 201208475, a strip-search allegation was substantiated against him.

Civilian Contact Attempts

§ 87(2)(b) was unable to provide any names or contact information for any of the friends he was with during this incident. He provided the name and phone number of his sister, § 87(2)(b) as someone who might be able to provide information regarding these witnesses. § 87(2)(b) was called, and she stated she did not have any names or contact information for any of the witnesses in this case. § 87(2)(b) was also called, and he did not have any names or contact information for any of § 87(2)(b) s friends either. Given this, and that none of the other individuals present for this incident were summonsed or arrested, the investigation was unable to identify any § 87(2)(b) s friends who were present for this incident. The Field Team canvassed the incident location for witnesses, and located § 87(2)(b) the superintendent of 54 West 174th Street in the Bronx. § 87(2)(b) was present for the incident and provided a statement to the CCRB, but the Field Team did not locate any other witnesses.

Findings and Recommendations

Officer Identification

§ 87(2)(b) stated that while he was in a holding cell at the 46th Precinct stationhouse, an officer in a white uniformed shirt spoke with him. § 87(2)(b) alleged that he asked this officer to

call an ambulance for him, and that the officer failed to do so. § 87(2)(b) described this officer as a white male who was over 6'0" tall, with a slim build and white hair.

The 46th Precinct roll call for tour three on June 6, 2017, shows that Lt. Christopher Lagrasta was the only officer with a rank of lieutenant or above who was working during that tour (05 Board Review). He thus would have been the only officer wearing a white uniformed shirt at that time. He is a 6'0" tall, 205-pound white male with red hair that is greying. The roll call for tour one on June 7, 2017, shows that Lt. Angelica Amaya was the only officer with a rank of lieutenant or above who was working during that tour (06 Board Review). She is a black female. According to the 46th Precinct prisoner holding pen roster, § 87(2)(b) was transported to Bronx Central Booking at 4:25 a.m. on June 7, 2017 (07 Board Review).

Given that the only two officers who would have been wearing white uniformed shirts while § 87(2)(b) was held at the 46th Precinct stationhouse were Lt. Lagrasta and Lt. Amaya, and that Lt. Amaya is a black female whereas Lt. Lagrasta matches the description of the officer provided by § 87(2)(b) the investigation determined that Lt. Lagrasta was the subject of **Allegation G**.

Allegations Not Pleaded

Stop – PO Guzman and PO Rivera both stated that their sole reason for approaching the vehicle that § 87(2)(b) was seated inside of was that they recognized § 87(2)(b) and knew that there was an open arrest warrant for him regarding an assault. This is also the reason given for the stop in § 87(2)(b)'s arrest report (08 Board Review). § 87(2)(b)

§ 87(2)(b)

§ 87(2)(b)

§ 87(2)(b)

§ 87(2)(b)

Given that there were active warrants for § 87(2)(b) which granted the officers in this case probable cause to arrest § 87(2)(b) and that they arrested § 87(2)(b) in regards to these warrants, no stop allegation is pleaded.

Allegation A: Force – At 54 West 174th Street in the Bronx, PO Rafael Guzman used physical force against § 87(2)(b)

§ 87(2)(g) .

It is undisputed that PO Guzman and PO Rivera approached the vehicle § 87(2)(b) was seated inside of, asked § 87(2)(b) to step out of the vehicle, and that § 87(2)(b) complied. It is also undisputed that the officers intended to place § 87(2)(b) under arrest at that time in regards to an arrest warrant for a burglary. § 87(2)(b) stated that both officers then immediately grabbed him and threw him to the ground. He denied that he tried to run away from the officers, or gave

them any physical resistance prior to the officers throwing him on the ground. He did not allege that PO Guzman grabbed him by the hair and threw him to the ground (13 Board Review).

PO Guzman stated that after § 87(2)(b) stepped out of the vehicle, he started running away from the officers. PO Rivera grabbed § 87(2)(b) around his waist, and PO Rivera stumbled and fell onto his knees. § 87(2)(b) continued trying to run away, and dragged PO Rivera, who was still holding onto § 87(2)(b) around his waist. PO Guzman then grabbed § 87(2)(b) by his hair and pulled him to the ground (14 Board Review).

The video from the exterior of 51 West 174th Street shows that § 87(2)(b) did run from the officers after exiting the vehicle. PO Rivera grabbed § 87(2)(b) around his waist, and both § 87(2)(b) and PO Rivera fall to the ground. § 87(2)(b) stands up, and PO Rivera remains on the ground, but is still holding § 87(2)(b) around his legs. PO Guzman attempts to grab § 87(2)(b) and § 87(2)(b) continues stumbling and trying to push PO Guzman away from him. PO Guzman then grabs the top of § 87(2)(b)'s head by his hair and pulls him to the ground.

§ 87(2)(g)

Patrol Guide Procedure 221-01 stipulates that an officer's use of force must be reasonable given the totality of the circumstances in which he or she uses it (15 Board Review).

§ 87(2)(g)

Allegation B: Force – At 54 West 174th Street in the Bronx, PO Rafael Guzman used a chokehold against § 87(2)(b)

Allegation C: Force – At 54 West 174th Street in the Bronx, PO Rafael Guzman restricted § 87(2)(b)'s breathing.

Allegation D: Force – At 54 West 174th Street in the Bronx, PO Flavio Rivera used a chokehold against § 87(2)(b)

Allegation E: Force – At 54 West 174th Street in the Bronx, PO Flavio Rivera restricted § 87(2)(b)'s breathing.

§ 87(2)(g)

§ 87(2)(b) alleged that after the officers threw him to the ground, PO Guzman wrapped his arm around § 87(2)(b)'s neck. This hold placed pressure on the front of § 87(2)(b)'s neck, and caused him to have difficulty breathing. § 87(2)(b) told the officers that he could not breathe, but PO Guzman continued holding him in this manner for approximately twenty minutes. § 87(2)(b) was moving his body in an attempt to be able to breathe, but he denied that he resisted the officers in any other way. PO Rivera was also holding § 87(2)(b)'s body while PO Guzman held § 87(2)(b) around his neck, but § 87(2)(b) denied that PO Rivera ever placed him in a chokehold.

PO Guzman stated that after he pulled § 87(2)(b) to the ground, PO Guzman, PO Rivera, and § 87(2)(b) began wrestling on the ground as the officers attempted to handcuff § 87(2)(b). § 87(2)(b) resisted the officers by “flaring” his arms and legs. PO Guzman placed § 87(2)(b) in a “headlock,” in which he wrapped his arm around the right side of § 87(2)(b)'s neck, underneath § 87(2)(b)'s jawline. PO Guzman held § 87(2)(b) in this manner for approximately three to four seconds. PO Guzman did not recall if he placed pressure on § 87(2)(b)'s throat. After releasing § 87(2)(b) from this hold, PO Rivera grabbed § 87(2)(b) from behind, wrapping his arm around across § 87(2)(b)'s chest. Additional officers arrived, and they were able to place § 87(2)(b) in handcuffs. PO Guzman did not recall seeing PO Rivera grab § 87(2)(b) around his neck, nor did he recall seeing PO Rivera place any pressure on § 87(2)(b)'s throat during this incident. PO Guzman did not recall grabbing § 87(2)(b) around his neck at any time during this incident other than the aforementioned headlock, nor did PO Guzman recall § 87(2)(b) ever indicating that he was having trouble breathing.

PO Rivera stated that after § 87(2)(b) and PO Rivera were on the ground, PO Guzman grabbed and held § 87(2)(b) who was struggling by “flaring” his arms and legs, and moving his body. PO Guzman held § 87(2)(b) by his shoulders, arms, and hands at that time. PO Rivera then grabbed § 87(2)(b) from behind by reaching one arm over § 87(2)(b)'s shoulder and his other arm underneath § 87(2)(b)'s opposite armpit, and clasping his hands together in front of

§ 87(2)(b)'s chest. PO Rivera denied that his arms were close to § 87(2)(b)'s neck as he held him in this manner. PO Rivera continued to hold § 87(2)(b) until additional officers arrived, and they were able to place § 87(2)(b) in handcuffs. PO Rivera did not see PO Guzman wrap his arm around § 87(2)(b)'s neck during this incident, nor did he see PO Guzman place any pressure on § 87(2)(b)'s neck. PO Rivera denied grabbing § 87(2)(b) around his neck, or placing his arms on § 87(2)(b)'s neck. PO Rivera did not recall putting any pressure on § 87(2)(b)'s throat, nor did he recall § 87(2)(b) saying that he could not breathe (16 Board Review).

The video provided by § 87(2)(b) (located in IA #7) shows PO Guzman wrapping his arm around § 87(2)(b)'s neck from behind (17 Board Review). PO Rivera also wraps his arm around § 87(2)(b) near his neck (18 Board Review), and the officers pull back and roll into the street, with § 87(2)(b) still in their hold. PO Guzman then sits in the street with § 87(2)(b) lying with his head in PO Guzman's lap. The individual filming walks around to the front of PO Guzman, and PO Guzman's forearm is seen holding § 87(2)(b) underneath his chin (19 Board Review). When PO Guzman was shown this section of video, he stated his arm "appeared" to be on § 87(2)(b)'s neck in multiple instances. PO Guzman affirmed that he did have his arm around § 87(2)(b)'s neck in this portion of the incident, but denied that he was intentionally trying to grab § 87(2)(b) around his neck. PO Rivera stated that his arm was across § 87(2)(b)'s shoulder during this portion of the incident, and he was not certain whether his arm was on § 87(2)(b)'s neck. PO Rivera could not say based on this section of video and his recollection of the incident whether PO Guzman held § 87(2)(b) around his neck.

PO Guzman then stands up in the video, and PO Rivera grabs § 87(2)(b) from behind, with one of his arms over § 87(2)(b)'s right shoulder and his other arm under § 87(2)(b)'s left armpit. PO Rivera rolls over so that he and § 87(2)(b) are on their sides, and continues holding § 87(2)(b) with his forearm underneath § 87(2)(b)'s chin (20 Board Review). PO Rivera holds § 87(2)(b) until additional officers arrive, and they are able to place § 87(2)(b) in handcuffs. When shown this video, PO Rivera stated his arms were across § 87(2)(b)'s chest, and he denied that he placed his arm on § 87(2)(b)'s neck.

The video from 51 West 174th Street (located in IA #25) shows the physical struggle between the officers and § 87(2)(b) from a different angle. At the 1:27 mark, it shows that PO Guzman had his arm wrapped around the front of § 87(2)(b)'s neck as he and § 87(2)(b) rolled into the street (21 Board Review). At the 1:49 mark, PO Rivera is grabbing § 87(2)(b) near his neck, although the exact placement of PO Rivera's arm on § 87(2)(b)'s body cannot be seen (22 Board Review). When shown this section of video, PO Rivera again maintained that his arms were across § 87(2)(b)'s chest, and not on his neck.

§ 87(2)(b) did not allege that he sustained any injuries as a result of being placed in a chokehold by the officers. § 87(2)(b) saw a medical provider while in § 87(2)(b).

§ 87(2)(b) custody on § 87(2)(b). There is no mention in § 87(2)(b)'s medical records of any injuries he sustained during the course of his arrest on June 6, 2017.

§ 87(2)(g)

§ 87(2)(b). The videos of the incident show PO Guzman holding his arm around § 87(2)(b)'s neck at multiple points during the struggle between § 87(2)(b) and the officers, and upon viewing these videos, PO Guzman affirmed that he did have his arm around § 87(2)(b) as alleged. While § 87(2)(b) did not allege that PO Rivera placed him in a chokehold, it is reasonable given the chaotic nature of the physical struggle between § 87(2)(b) and the officers that he could not see which officer was holding him around his neck at each point during the struggle. Furthermore, while PO Rivera stated he was wrapping his arms around § 87(2)(b)'s chest during this struggle, and he did not recall ever placing any pressure on § 87(2)(b)'s neck, the videos show PO Rivera placing his arm on § 87(2)(b)'s neck at several different points during the incident. While § 87(2)(b)'s claim he was placed in a chokehold for twenty minutes in total is not credible, the investigation determined that both officers did in fact wrap their arms around § 87(2)(b)'s neck during their struggle to arrest him, and that these holds did restrict § 87(2)(b)'s breathing.

Patrol Guide Procedure 221-01 defines a chokehold as any pressure to the throat, which may prevent or hinder breathing or reduce intake of air. The procedure prohibits officers from using chokeholds (15 Board Review).

§ 87(2)(g)

§ 87(2)(b)

§ 87(2)(b)

Allegation F: Abuse of Authority – At the 46th Precinct stationhouse, PO Rafael Guzman refused to obtain medical treatment for § 87(2)(b)

Allegation G: Abuse of Authority – At the 46th Precinct stationhouse, Lt. Christopher Lagrasta refused to obtain medical treatment for § 87(2)(b)

§ 87(2)(b) stated that he sustained cuts on his right forearm and above his right eyebrow from his arrest. He stated that while he was being held in a cell at the 46th Precinct stationhouse, he asked PO Guzman approximately three times to call an ambulance for him. § 87(2)(b) also asked Lt. Christopher Lagrasta to call an ambulance for him while he was in the holding cell. Both officers stated to § 87(2)(b) that they would call an ambulance, but no ambulance ever arrived for § 87(2)(b) and he never was given medical treatment.

PO Guzman denied that § 87(2)(b) had any visible injuries, or that he complained of any injuries during this incident. He denied that § 87(2)(b) ever asked him or any other officer to call an ambulance for him at the 46th Precinct stationhouse.

PO Rivera stated he did not know if § 87(2)(b) sustained any injuries during this incident. He denied that § 87(2)(b) complained of any injuries or pain, and he denied hearing § 87(2)(b) ask any officers to call an ambulance for him.

Lt. Lagrasta denied having any interaction with § 87(2)(b) inside of the 46th Precinct stationhouse. He denied that § 87(2)(b) asked him, PO Guzman, or any other officer to call an ambulance for him during this incident (23 Board Review).

PO Valon Rugova of the 46th Precinct prepared a medical treatment of prisoner report for § 87(2)(b) (24 Board Review). This report states that § 87(2)(b) received minor scrapes and bruises during his arrest, and that § 87(2)(b) refused medical aid at the 46th Precinct stationhouse. When shown this form, PO Guzman maintained that he never learned of § 87(2)(b) having any injuries during this incident.

PO Rugova stated that he transported § 87(2)(b) from the 46th Precinct stationhouse to Bronx Central Booking, but otherwise did not have any interaction with § 87(2)(b) during this incident. § 87(2)(b) had a cut on his right cheek, but he did not complain of any injuries or ask PO Rugova for medical treatment. PO Rugova asked § 87(2)(b) immediately prior to transporting him to Bronx Central Booking whether he needed medical treatment, and § 87(2)(b) stated he did not. PO Rugova denied hearing § 87(2)(b) ask any officers to call an ambulance for him (25 Board Review).

§ 87(2)(b)'s medical records from the Department of Corrections indicate that he saw a medical provider in § 87(2)(b) custody on § 87(2)(b), for a general intake examination. There is no mention in these records of any injuries § 87(2)(b) sustained during his arrest on June 6, 2017 (26 Board Review).

§ 87(2)(g)
[REDACTED]
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[REDACTED]

Squad: 13

Investigator: _____
Signature Print Date

Squad Leader: _____
Title/Signature Print Date

Reviewer: _____
Title/Signature Print Date